

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

EASTON HARVEY,)
Plaintiff,) Case No.: 2:11-cv-00182-GMN-LRL
vs.)
ORDER
WASHINGTON MUTUAL BANK, F.A.,)
et al.,)
Defendants.)

Pending before the Court is Defendants JPMorgan Chase Bank, N.A. and California Reconveyance Company's (collectively, "Defendants") Motion to Dismiss (ECF No. 7). Plaintiff filed a late Response (ECF No. 10), to which Defendants filed a timely Reply (ECF No. 12). For the reasons that follow, Defendants' Motion will be GRANTED in part and DENIED in part. Plaintiff's Complaint will be DISMISSED as to Defendants JPMorgan Chase Bank, N.A. and California Reconveyance Company but the *lis pendens* will not yet be expunged.

I. BACKGROUND

This is the third lawsuit that Plaintiff has filed in an attempt to invalidate foreclosure proceedings with respect to the real property located at Unit 903 of 900 S. Las Vegas Boulevard, Las Vegas, NV 89101. In the first action, over which United States District Judge Kent J. Dawson of this District presided, JPMorgan Chase Bank, N.A. and California Reconveyance Company's Motion for Summary Judgment was granted as to all claims Plaintiff had pleaded against them. (See Order, ECF No. 19, 2:09-cv-2025-KJD-RJJ.)

Plaintiff then attempted to re-file his case against JPMorgan Chase Bank, N.A.; California Reconveyance Company; and other defendants in the Eighth Judicial District Court

1 of the Nevada state court system. That case was removed to this District and assigned Case
2 Number 2:10-cv-01807-PMP-PAL. Judge Philip M. Pro dismissed JPMorgan Chase Bank,
3 N.A. and California Reconveyance Company from the lawsuit on December 6, 2010,
4 explaining:

5 The Court finds that Plaintiff Harvey has failed in his Opposition
6 (Doc. #18) to address any of the substantive arguments asserted by
7 Defendants [JPMorgan Chase Bank, N.A. and California
Reconveyance Company] in support of their motion to dismiss.
Moreover, it is clear that Plaintiff's Complaint in this action attempts
8 to re-litigate matters that have previously been considered and
rejected by another judge of this Court and are hence barred by the
9 Doctrine of Preclusion, which cannot be cured by amendment of the
10 pleadings.

11 (Order 1:17-22, ECF No. 20, 2:10-cv-01807-PMP-PAL.) Plaintiff filed the instant lawsuit in
12 state court less than one month later.

13 II. DISCUSSION

14 As was the case in the lawsuit before Judge Pro, Plaintiff's Response (ECF No. 10) in
15 this lawsuit fails to address the substantive arguments set forth in Defendants' Motion to
16 Dismiss. Instead, Plaintiff's Response merely reiterates the allegations set forth in the
17 Complaint and makes generalized assertions about notice pleading. Because Plaintiff has
18 failed to respond properly to Defendants' Motion, the Motion can be granted. *See D. Nev. R.*
19 7-2(d).

20 Furthermore, as Judge Pro explained in his Order, this lawsuit is merely an attempt on
21 the part of Plaintiff to re-litigate issues and claims that have already been resolved by another
22 Judge of this District who considered Plaintiff's previous Complaint arising out of the same
23 transaction complained about here. As such, dismissal is appropriate under the doctrine of
24 preclusion, which is also referred to as "*res judicata*." *See Taylor v. Sturgell*, 553 U.S. 880,
25 892 (2008). However, the *lis pendens* will not be expunged at this time, as there are still three

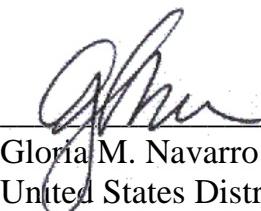
1 Defendants--Executive Trustee Services, LLC; Merscorp, Inc.; and Mortgage Electronic
2 Registration Systems, Inc.--remaining in the lawsuit that have not yet filed a Motion to
3 Dismiss.

4 Plaintiff is admonished to refrain from filing additional lawsuits against JPMorgan
5 Chase Bank, N.A. and California Reconveyance Company arising out of the foreclosure of
6 the real property located at Unit 903 of 900 S. Las Vegas Boulevard, Las Vegas, NV 89101.
7 Further lawsuits against those Defendants may result in sanctions being imposed upon
8 Plaintiff pursuant to Federal Rule of Civil Procedure 11.

9 **CONCLUSION**

10 **IT IS HEREBY ORDERED** that Defendants JPMorgan Chase Bank, N.A. and
11 California Reconveyance Company's Motion to Dismiss (ECF No. 7) is **GRANTED in part**
12 and **DENIED in part**. Plaintiff's Complaint is **DISMISSED with prejudice as to**
13 **Defendants JPMorgan Chase Bank, N.A. and California Reconveyance Company**, but
14 the *lis pendens* will not yet be expunged.

15 DATED this 10th day of June, 2011.

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18 Gloria M. Navarro
19 United States District Judge
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